

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

Hearing Date: September 27, 2022
Time: 10:30 a.m.
Objections Due: September 20, 2022

In Re:

Erin E. McGoldrick,

Case No. 21-72260-ast

Chapter 13

Debtor.

X

**NOTICE OF HEARING ON DEBTOR'S MOTION
FOR AN ORDER AUTHORIZING TRUSTEE TO MAKE
A PRE-CONFIRMATION PAYMENT TO SECURED CREDITOR**

PLEASE TAKE NOTICE, that a hearing on the Debtor's motion for an order authorizing the Trustee to make a pre-confirmation payment to Rushmore Loan Management Services, the servicer for U.S. Bank, National Association, not in its individual capacity, but solely as Trustee for RMS Series Trust 2020-1, a secured creditor in this proceeding (the "Motion") will be held before the Honorable Alan S. Trust, United States Bankruptcy Judge for the Eastern District of New York, Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722, Courtroom 960 on September 27, 2022 at 10:30 a.m. or as soon thereafter as counsel can be heard.

PLEASE TAKE FURTHER NOTICE that objections (if any) to the Motion shall be in writing, shall set forth the name of the objecting party, the basis for the objection and the specific grounds therefore, must conform to the Bankruptcy Rules and the Local Rules of the Bankruptcy Court for the Eastern District of New York, are due on June 24, 2020, and must be served upon the following parties: (i) Sferrazza & Keenan PLLC, 532

Broadhollow Road, Suite 111, Melville, NY 11747 (Attn: Sarah M. Keenan, Esq.); (ii) Krista M. Preuss, US Standing Chapter 13 Trustee, 100 Jericho Quadrangle, Suite 127 Jericho, NY 11753; and (iii) the Office of the United States Trustee, Long Island Federal Courthouse, 560 Federal Plaza, Room 560, Central Islip, New York 11722.

Dated: Melville, New York
August 26, 2022

SFERRAZZA AND KEENAN, PLLC
Attorneys for the Debtor

By: /s/ Sarah M. Keenan
Sarah M. Keenan
532 Broad Hollow Road, Suite 111
Melville, NY 11747
(631) 753-4400
E-mail: sally@skpllc.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re: _____X

Case No. 21-72260-ast

Chapter 13

Erin E. McGoldrick,

Debtor.

_____X

**APPLICATION IN SUPPORT OF MOTION FOR ORDER AUTHORIZING TRUSTEE TO MAKE
PRE-CONFIRMATION PAYMENT TO RUSHMORE LOAN MANAGEMENT SERVICES**

Erin E. McGoldrick, the Chapter 13 debtor (the “Debtor”), by and through her attorneys Sferrazza & Keenan PLLC, moves the court for an order authorizing the Chapter 13 Trustee to make a pre-confirmation payment to a secured creditor (the “Motion”), and respectfully represents as follows:

1. On December 30, 2021, the Debtor filed a voluntary petition for relief under Chapter 13 of title 11 of the United States Code (the “Bankruptcy Code”). Krista Preuss is the appointed Chapter 13 Trustee of the Debtor’s case.

2. The Debtor is bringing this Motion to facilitate the Debtor’s modification of a mortgage secured by her residence by authorizing the Trustee to release funds needed to make a down payment on a trial modification offer Rushmore Loan Management Services (“Rushmore”).

JURISDICTION AND VENUE

3. This Court has jurisdiction over this Motion under 28 U.S.C. §§157 and 1334.

4. Venue of this case and this Motion in this district is proper pursuant to 28 U.S.C. §§1408 and 1409. The statutory predicates for the relief sought herein are 11 U.S.C. § 363.

BACKGROUND

5. The Debtor is the fee simple owner of real property located at 7 Rogers Street, Blue Point, New York 11715 (the “Real Property”).

6. The Debtor is obligated under, and the Real Property is subject to, a mortgage (the “Mortgage”) held by U.S. Bank, National Association, not in its individual capacity, but solely as Trustee for RMS Series Trust 2020-1 (the “Secured Creditor”).

7. The Debtor filed a petition for relief under Chapter 13 of the Bankruptcy Code on December 30, 2021. Krista Preuss is the appointed Chapter 13 Trustee (the “Trustee”).

8. During the pendency of this Chapter 13 case, the Debtor submitted a loss mitigation application to the Secured Creditor, through its servicer Rushmore Loan Management Services (“Rushmore”).

9. On or about August 22, 2022, the Secured Creditor offered the Debtor a trial modification (the “Modification”). The Modification offer is attached hereto as Exhibit “A”¹.

10. Pursuant to the terms of the Modification, the Debtor must remit to Rushmore a down payment in the amount of \$93,000 (the “Down Payment”) on

¹ If the Court grants the instant Motion, the Debtor and/or the Secured Creditor will be seeking approval of the Modification through a separate motion.

September 5, 2022², followed by six monthly payments starting on October 1, 2022, in the amount of \$2,891.94 (the “Modified Payment”).

11. For the Down Payment, the Debtor has \$60,000 in savings and requires the Trustee to release the balance of \$33,000 (the “Pre-Confirmation Payment”).

12. On February 25, 2022, the Debtor filed an amended chapter 13 plan (Doc. 16) (the “Amended Plan”). Pursuant to the Amended Plan, all general unsecured creditors holding an allowed claim against the Debtor will receive a one hundred (100%) percent distribution.

13. As of August 26, 2022, the Debtor is current with all payments due to the Trustee under the terms of the Amended Plan.

14. To date, the Trustee is holding amounts (the “Plan Payments”) in excess of the amounts necessary to fund the Amended Plan.

RELIEF REQUESTED

15. Bankruptcy Code §363(e) states that “at any time, on request of an entity that has an interest in property . . . proposed to be used, sold, or leased by the trustee, the court, with or without a hearing, shall prohibit or condition such use, sale, or lease as is necessary provide adequate protection of such interest.”

16. Bankruptcy Code §361 allows a debtor or trustee to provide adequate protection in the form of (1) periodic cash payments; (2) an additional or replacement lien; or (3) the indubitable equivalent of such interest in property.

² The Debtor has asked for an extension of time for the payment of the Down Payment to allow her to make this motion.

17. The Debtor cannot accept the Modification without the Pre-Confirmation Payment.

18. The trustee is in receipt of the Plan Payments which amount exceeds the amount necessary to fund the Plan and provide a one hundred (100%) percent distribution to the general unsecured creditors.

19. The Secured Creditor is the only creditor in this case. A copy of the claims register is attached as Exhibit B.

20. To protect the Debtor's interest in the Real Property, and protect the Secured Creditor's Mortgage interest, the Debtor requests that the Trustee remit the Pre-Confirmation Payment to the Secured Creditor in the amount of \$33,000.00 upon entry of a court order granting the Motion.

21. Based on the foregoing, the Debtor respectfully requests that the Court enter an order authorizing the Trustee to make the Pre-Confirmation Payment from the Plan Payments.

22. The Debtor has served the Notice of this Motion upon: (1) Kosterich & Skeete, LLC, counsel to the Secured Creditor; (2) the Chapter 13 Trustee; and (3) the Office of the United States Trustee.

23. No previous request for the relief requested herein has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that the Court enter an order (1) authorizing the Trustee to remit the Pre-Confirmation Payment of \$33,000 to

the Secured Creditor from the Plan Payments; and (2) granting such other and further relief as is just and proper.

Dated: Melville, New York
August 26, 2022

SFERRAZZA AND KEENAN, PLLC
Attorneys for the Debtor

By: /s/ Sarah M. Keenan
Sarah M. Keenan
532 Broad Hollow Road, Suite 111
Melville, NY 11747
(631) 753-4400
E-mail: sally@skpllc.com

EXHIBIT A

EXHIBIT B



P.O. Box 55004
Irvine, CA 92618
888.504.6700 toll free
949.341.2200 fax
www.rushmorelm.com

August 22, 2022

ERIN MCGOLDRICK
7 ROGERS ST
BLUE POINT, NY 11715

Loan #: 153

Dear ERIN MCGOLDRICK:

Congratulations! You are approved to enter into a trial period plan that may qualify you for a loan modification. This is the first step toward qualifying for more affordable mortgage payments. Please read this letter so that you understand all the steps you need to take to modify your mortgage payments.

What you need to do...

To accept this offer, your initial payment of **\$93,000.00 must be in certified funds, made payable to Rushmore Loan Management Services LLC**. The funds must be received by Rushmore Loan Management Services LLC on or before **09/05/2022**. To qualify for a permanent modification, you must make the following trial period payments in a timely manner:

1st payment: \$2,891.94 by 10/01/2022
2nd payment: \$2,891.94 by 11/01/2022
3rd payment: \$2,891.94 by 12/01/2022
4th payment: \$2,891.94 by 01/01/2023
5th payment: \$2,891.94 by 02/01/2023
6th payment: \$2,891.94 by 03/01/2023

Please send your Trial Period Plan payments to:

Rushmore Loan Management Services LLC
15480 Laguna Canyon Road, Suite 100
Irvine, CA 92618
Attn: Home Retention Department

After all trial period payments are timely made and you have submitted all the required documents, your mortgage will be permanently modified. (Your existing loan and loan requirements remain in effect and unchanged during the trial period.) **If each payment is not received in the last day of the month in which it is due, this offer will end and your loan may not be modified. I further understand that I must continue making payments in accordance with the terms of the Trial Period Plan Agreement until the permanent modification has been ratified by all parties.**

If you have any questions or if you cannot afford the trial period payments shown above but want to remain in your home, or if you have decided to leave your home but still want to avoid foreclosure, please call us at **1-888-504-7300** as we may be able to help you. (Also, please review the attached "Frequently Asked Questions.")



1101 1948 04/20



Sincerely,

ALFONSO CASTREJON
Loss Mitigation Department
Rushmore Loan Management Services LLC

Attachments: (1) Frequently Asked Questions and (2) Additional Trial Period Plan Information and Legal Notices



1101*1948 04/20



*

Eastern District of New York Claims Register

8-21-72260-ast Erin E McGoldrick

Judge: Alan S. Trust

Chapter: 13

Office: Central Islip

Last Date to file claims: 03/10/2022

Trustee: Krista M Preuss

Last Date to file (Govt): 06/28/2022

Creditor: (10051845)

U.S. Bank, National Association, not in its
indivi

Claim No: 1

Original Filed

Date: 03/08/2022

Original Entered

Date: 03/08/2022

Status:

Filed by: CR

Entered by: Denise Singh-Skeete

Modified:

Amount claimed: \$327145.63

Secured claimed: \$327145.63

History:

Details ● 1-1 03/08/2022 Claim #1 filed by U.S. Bank, National Association, not in its indivi, Amount claimed: \$327145.63 (Singh-Skeete, Denise)

Description:

Remarks:

Claims Register Summary

Case Name: Erin E McGoldrick

Case Number: 8-21-72260-ast

Chapter: 13

Date Filed: 12/30/2021

Total Number Of Claims: 1

Total Amount Claimed*	\$327145.63
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured	\$327145.63	
Priority		
Administrative		

PACER Service Center			
Transaction Receipt			
08/26/2022 15:02:03			
PACER Login:	smks20011923	Client Code:	

8/26/22, 3:02 PM

Live Database: nyeb_live

Description:	Claims Register	Search Criteria:	8-21-72260-ast Filed or Entered From: 8/5/2021 Filed or Entered To: 1/3/2023
Billable Pages:	1	Cost:	0.10